

UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

AMCOR FLEXIBLES INC,

No. C 14-01025 LB

Plaintiff,

v.

**ORDER REGARDING AMCOR'S  
UNILATERAL DISCOVERY  
DISPUTE LETTER DATED  
FEBRUARY 17, 2015**

FRESH EXPRESS INC,

Defendant.

[Re: ECF Nos. 56, 57]

**INTRODUCTION**

Plaintiff Amcor Flexibles, Inc. ("Amcor") sued Defendant Fresh Express, Inc. ("Fresh Express") for breach of contract and unlawful and unfair business practices. (*See* Complaint, ECF No. 1.<sup>1</sup>) On January 17, 2015, Amcor filed a unilateral discovery dispute letter brief in which Amcor sets forth its argument for compelling Fresh Express to further respond to some of Amcor's requests for production of documents and interrogatories. (*See* 2/17/2015 Letter, ECF No. 56.)

The undersigned's standing order sets forth a process for resolving discovery disputes. That process includes a requirement that the parties meet and confer and file a joint discovery dispute letter. The standing order contemplates that it takes only 15 days from the time one party requests a meet-and-confer meeting to the time the parties' file a joint discovery dispute letter. Amcor says that it has "repeatedly attempted to secure joint participation from Fresh Express but Fresh Express

<sup>1</sup> Record citations are to documents in the Electronic Case File ("ECF"); pinpoint citations are to the ECF-generated page numbers at the top of the documents.

1 did not provide its input, despite being given additional time in which to do so.” (*Id.* at 1.) Amcor  
2 does not state when it requested a meet-and-confer meeting, so the court does not know whether this  
3 15-day process was completed. In addition, on February 18, 2015, Fresh Express’s counsel filed a  
4 letter explaining that he was not able to respond to Amcor’s communications due to a family  
5 emergency. (*See* 2/18/2015 Letter, ECF No. 57.) He requests that Fresh Express have until at least  
6 February 27, 2015 to submit its position on the discovery dispute to Amcor. (*Id.* at 1.)

7 In light of these circumstances, the court grants Fresh Express’s request and denies without  
8 prejudice Amcor’s unilateral discovery dispute letter. Unless the parties agree otherwise (which  
9 they are free to do), or absent further order of the court (which Fresh Express’s counsel may request  
10 if he needs more time due to the family emergency), Fresh Express must provide Amcor with its  
11 position on the discovery dispute by 12:00 p.m. PST on Monday, March 2, 2015. The parties should  
12 try to meet and confer by telephone that day or the next. If the dispute remains unresolved, they  
13 may file a joint discovery dispute letter on Wednesday, March 2, 2015. The court then will review  
14 the letter brief and determine whether formal briefing or future proceedings are necessary. As for  
15 Amcor’s concerns about the March 17, 2015 fact discovery deadline, the court does not believe that  
16 Amcor should worry about it too much. There is enough time to adjust (if necessary) the discovery  
17 deadlines without affecting the June 18, 2015 dispositive motions hearing date, the July 2015  
18 pretrial deadlines, and the August 10, 2015 trial date.

19 **IT IS SO ORDERED.**

20 Dated: February 19, 2015

21   
22 LAUREL BEELER  
23 United States Magistrate Judge  
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